

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

WAYNE VAN SCOY,)	
)	
Plaintiff,)	
)	C.A. No. 05-108-KAJ
v.)	
)	
VAN SCOY DIAMOND MINE OF)	
DELAWARE, INC., a Delaware corporation,)	
KURT VAN SCOY, and DONNA VAN SCOY,)	
)	
Defendants.)	

**ORDER DENYING DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT**

This matter comes before the Court on Defendants Van Scoy Diamond Mine of Delaware, Inc, Kurt Van Scoy and Donna Van Scoy's Motion for Summary Judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. After consideration of all of the evidence and the briefs and memorandum of the parties, it is hereby

ORDERED and ADJUDGED that Defendants' Motion for Summary Judgment is hereby **DENIED** and specifically ordered and decreed:

1. Plaintiff's relief is not barred by laches and Defendants' laches defense is hereby dismissed, with prejudice.
2. Individual Defendants Kurt Van Scoy and Donna Van Scoy are individually liable, along with Defendants Van Scoy Diamond Mine of Delaware, Inc. if Plaintiff prevails on its claims of trademark and service mark infringement, misappropriation of his federally registered marks as a domain name and/or unfair competition.

SO ORDERED, this _____ day of _____, 200____.

United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of December, 2005, the attached **ORDER DENYING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT** was served upon the below-named counsel of record at the address and in the manner indicated:

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VIA ELECTRONIC MAIL

/s/ John G. Day

John G. Day